

# Client Alert: Insider Trading Issues Raised by News of Senators' Reported Trades

## Publications

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As the world coped with the Coronavirus (COVID-19) pandemic, news spread that four senators made well-timed sales of well-chosen securities before the market started its precipitous decline—at a point in time when the federal government was still minimizing the risk of a pandemic. While the political condemnation was swift and definitive, the question of liability for insider trading is more nuanced and fact-intensive: if the senators are investigated by the Department of Justice or Securities and Exchange Commission (SEC), counsel will likely argue that the information the senators had was already in the public domain. The key issue will be whether the closed-door briefings included distinctive nonpublic facts that gave the senators unique insight into the impending crisis and its likely impact on securities markets. Several senators have also stated that the securities trades were made by others. These assertions will likely be tested by a detailed reconstruction of the communications between the senators, their family members and any others responsible for administering the accounts. Even if the senators prove somebody else placed the trade, investigators will carefully review whether the senators tipped any material nonpublic information to the people managing their accounts. Ultimately, legal liability is less assured than the political fall-out.

To read the full alert, please [click here](#).

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